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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/745,499	12/22/2000	Ralph L. Anderson	03768/9323 (14586)	1378

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EXAMINER

VENKAT, JYOTHSNA A

ART UNIT

PAPER NUMBER

1615

DATE MAILED: 10/02/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b> <i>File Copy</i>	Application No.	Applicant(s)
	09/745,499	ANDERSON ET AL.
	Examiner	Art Unit
	JYOTHSNA A VENKAT	1615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 24 September 2001.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-42 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                           | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6 . | 6) <input type="checkbox"/> Other: _____ .                                   |

## **DETAILED ACTION**

Receipt is acknowledged of IDS, declaration and Supplemental IDS filed on 6/11/01, 8/20/01 and 9/24/01 filed respectively. Claims 1-42 are pending in the application and the status of the application is as follows:

### ***Information Disclosure Statement***

Applicants are requested to provide copies cited in IDS dated 6/11/01. The references have been received in the office, but have been misplaced during processing. Therefore the IDS dated 6/11/01 have not been considered.

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 4, 7-8, 12, 14-24, 26, 28, 30-31, 36, and 38-42 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The following reasons apply:

- 1) Claims 4 and 28 recites "comprises" followed by latex adhesive. The claim would read better by amending "comprises" to "is".
- 2) Claims 7 and 30 would read better, by **deleting** "*anti-microbial formulation comprises a*" and **inserting** after "source of" "*anti-microbial metal*", and **deleting** "*of a metal*" and **inserting** "*are*".

3) Claims 8 and 31 are further limiting the scope of the claims, but the claims are broader in scope in view of the expression "comprises". Amending "comprises" to "is" is suggested to overcome the above rejection. The same is true for claims 12, and 36.

4) Claims 14-23, and 19-24, and 38-42 lacks antecedent basis with respect to "formulation" and "web". Amending to "**anti-microbial formulations**" and "**absorbent web**" is suggested to overcome the above rejection.

5) Regarding claims 24 and 26, the phrase "- like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "- like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3, 6-8, 13, 15-19, 22-27, 30-31, and 37-42 are rejected under 35 U.S.C. 102(b) as being anticipated by EP O 869,216 ('216).

The instant application is claiming a method of forming an anti-microbial wiper comprising the steps of:

*Providing a controlled release anti-microbial formulation comprising an anti-microbial agent, which is, silver ions and the antimicrobial formulation comprises a polymer  
Adhering said formulation to a web containing the fibers*

*The polymer can further comprise various additives.*

See page 3, lines 30 et seq for the web, the cellulose fibers reads on the claimed polymer, see page 4, line 24 for the claimed silver ions, see also page 5, and page 6 for the various antimicrobial formulations and the agents which read on the claimed “anti-microbial agent” and “anti-microbial formulations”, see page 5 for the claimed surfactant and see the claims. The method reads on the claimed “coating” of claim 15. The components are same, there fore the claims 16-19, and 38-42 are inherent absence of evidence to the contrary. The claimed property of “which web retains liquid after each rinse cycle, and which formulation releases sufficient anti-microbial agent into the retained liquid after each of at least five normal cycles so that the retained liquid is an anti-microbial solution“ is inherent absence of evidence to the contrary.

Claims 1-5, 13-20, 22-229, and 37-42 are rejected under 35 U.S.C. 102(b) as being anticipated by EP O 709, 507 ('507)

The instant application is claiming a method of forming an anti-microbial wiper comprising the steps of:

*Providing a controlled release anti-microbial formulation comprising an anti-microbial agent, and the antimicrobial formulation comprises a polymer mixture*

*Adhering said formulation to a web containing the fibers*

*The polymer can further comprise various additives.*

See page 2, for the web, see page 3 for the claimed polymer mixture, see also page 3, lines 35-55, see the examples where the preparation reads on claim 20, see the examples for the claimed additives and see page 3, lines 26-32 for the claimed surfactants. The method reads on the claimed “coating” of claim 15. The components are same, there fore claims 16-19, and 38-

42 are inherent absence of evidence to the contrary. The claimed property of “which web retains liquid after each rinse cycle, and which formulation releases sufficient anti-microbial agent into the retained liquid after each of at least five normal cycles so that the retained liquid is an anti-microbial solution“ is inherent absence of evidence to the contrary.

5. Claims 1-5, 16-19, 22-29, and 38-42 are rejected under 35 U.S.C. 102(b) as being anticipated by EP O 113, 254 ('254)

The instant application is claiming a method of forming an ant-microbial wiper comprising the steps of:

*Providing a controlled release anti-microbial formulation comprising an anti-microbial agent, and the antimicrobial formulation comprises a polymer*  
*Adhering said formulation to a web containing the fibers*  
*The polymer can further comprise various additives.*

See claims for the web, see page 4 for the polymer and the claimed latex adhesive, see page 3 for the claimed anti-microbial agent. See page 6. The components are same, therefore claims 16-19, and 38-42 are inherent absence of evidence to the contrary. The claimed property of “which web retains liquid after each rinse cycle, and which formulation releases sufficient anti-microbial agent into the retained liquid after each of at least five normal cycles so that the retained liquid is an anti-microbial solution“ is inherent absence of evidence to the contrary.

6. Claims 1-2, 9-10, 13, 15-19, 22-27, 32-34, and 37-42 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 90/02166('166)

The instant application is claiming a method of forming an ant-microbial wiper comprising the steps of:

*Providing a controlled release anti-microbial formulation comprising an anti-microbial agent, and the antimicrobial formulation comprises a polymer wherein the anti-microbial agent is calcium hypochlorite*

*Adhering said formulation to a web containing the fibers*

*The polymer can further comprise various additives.*

See the abstract, see the paragraph bridging pages 2-3 for the web, see page 3, lines 10-27 for the polymer, see page 4, line 22 for the claimed anti-microbial agent. See page 5 for the surfactant. The components are same, there fore claims 16-19, and 38-42 are inherent absence of evidence to the contrary. The claimed property of “which web retains liquid after each rinse cycle, and which formulation releases sufficient anti-microbial agent into the retained liquid after each of at least five normal cycles so that the retained liquid is an anti-microbial solution“ is inherent absence of evidence to the contrary.

7. Claims 1-2, 11-19, 22-27, and 35-42 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 90/02166 (166) 5,629,1081 ('081)

*2/3/03.*  
The instant application is claiming a method of forming an ant-microbial wiper comprising the steps of:

*Providing a controlled release anti-microbial formulation comprising an anti-microbial agent, and the antimicrobial formulation comprises a polymer wherein the anti-microbial agent is benzalkonium chloride.*

*Adhering said formulation to a web containing the fibers*

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The polymer can further comprise various additives.

See col.2, lines 55 et seq, col.3, see col.4, see col.5, lines 6-7 for the claimed anti-microbial agent. **Benzalkonium chloride is the trade name where as the chemical name is Alkyl-Dimethyl-benzylammonium chloride.** Therefore claims the patent also anticipates 12 and 36. See col.5, for the various additives at lines 10-32. The components are same, there fore claims 16-19, and 38-42 are inherent absence of evidence to the contrary. The claimed property of “which web retains liquid after each rinse cycle, and which formulation releases sufficient anti-microbial agent into the retained liquid after each of at least five normal cycles so that the retained liquid is an anti-microbial solution“ is inherent absence of evidence to the contrary.

8. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JYOTHSNA A VENKAT whose telephone number is 703-308-2439. The examiner can normally be reached on M-F, 9:30-6:30:1st Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, THURMAN K PAGE can be reached on 703-308-2927. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3592 for regular communications and 703-308-7924 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1235.

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JYOTHSNA A VENKAT  
Primary Examiner  
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September 30, 2002